

SENATE CHAMBER,
AUSTIN, TEXAS, Wednesday, July 13, 1870.

Senate met pursuant to adjournment; President Don Campbell presiding. Roll called; quorum present.

Absent—Senator Shannon.

Prayer by the Chaplain.

On motion of Senator Priest the reading of the journal was dispensed with.

Under direction of the President the Secretary carried to the House, for the signature of the Speaker, enrolled Senate bill No. 165, "An Act making an appropriation for certain purposes."

Special message from the Governor by his private Secretary :

EXECUTIVE DEPARTMENT,
Austin, Texas, July 12, 1870.

To the Honorable Senate of the State of Texas :

GENTLEMEN : I respectfully ask your advice and consent to the following appointments, to-wit :

L. Lindsay for judge of district court for the Twenty-first District.

J. M. Thurman for judge of the district court for the Thirty-first District.

William Burkhardt for judge of the district court for the Twentieth District.

Wm. H. Russell for judge of the district court for the Fifteenth District.

I. N. Everett for judge of the district court for the Twenty-sixth District.

John P. Osterhout for judge of the district court for the Thirty-fourth District.

Daniel D. Claiborne, judge of the district court for the Fourteenth District.

Respectfully,

EDMUND J. DAVIS,
Governor.

Referred to Committee on Nominations.

Under direction of the President the Secretary carried to the House, with action of the Senate, Senate joint resolution No. 12, instructing the Sergeant-at-Arms of the Senate to have the portrait of General Burleson suitably framed, and appropriating money for the same; Senate bill No. 256, "An Act to organize the county of

Presidio; Senate bill No. 144, "An Act appropriating money for the treasury department."

Special message from the Governor by his private Secretary:

EXECUTIVE DEPARTMENT,
Austin, Texas, July 13, 1870.

To the Honorable Senate of the State of Texas:

GENTLEMEN: I respectfully ask your advice and consent to the following appointment, to-wit:

Strother Green, Cyrus Hess, M. H. Goddin for directors of the penitentiary.

Respectfully,

EDMUND J. DAVIS,
Governor.

Referred to Committee on Nominations.

Message from the House:

House bill No. 386, "An Act providing for the payment of the outstanding indebtedness of the several counties."

House bill No. 68, "An Act reviving the act incorporating the Galveston Dry Dock Company and the subsequent laws in relation thereto, approved February 16, 1852, February 7, 1853, and February 8, 1858."

House bill No. 22, "An Act to incorporate the Pittsville Cotton Manufacturing Company."

House bill No. 98, "An Act to extend the time for the location of certain land certificates."

House bill No. 405, "An Act to prescribe the time of the annual meeting of the Legislature."

Also Senate bill No. 17, "An Act to incorporate the City Bank of Houston."

Senate bill No. 14, "An Act to incorporate the Jefferson, Marshall and Big Cypress Bayou Bridge Company."

Senate bill No. 55, "An Act to organize and define the powers of the Criminal District Court in and for the counties of Galveston and Harris, and to prescribe the duties thereof."

Petitions and Memorials:

By Senator Mills: Memorial from citizens of Grimes county asking the location of the county seat of Grimes county at Navasota.

Read and referred to Committee on Counties and County Boundaries.

On motion of Senator Mills, the rules were suspended to consider the report of Select Committee of Investigation.

Pending reading, Senator Mills moved a call of the Senate.

Call sustained.

Roll called.

Absent--Senators Ruby and Fountain.

Senator Ruby answered to his name.

Senator Fountain excused.

On motion of Senator Mills, the call of the Senate was suspended.

Report of Select Committee read.

Special message from the Governor:

EXECUTIVE DEPARTMENT,
Austin, Texas, July 13, 1870.

Hon. DON CAMPBELL,

President of Senate, State of Texas:

SIR: I respectfully return to your house (where it originated) the act entitled "An Act for the relief of the Eastern Texas Railroad Company, and to authorize it to branch the same as therein stated."

This act, in first section, proposes to renew and revive the Eastern Texas Railroad Company, to give it all the rights, privileges and immunities conferred by the original act of incorporation, and subsequent acts amendatory thereto. This provision, undoubtedly, is intended to have the effect of reviving the land grant, and, in my opinion, conflicts with section six of article ten of the Constitution.

A railroad company, or other corporation, is a person in legal intendment, and though I am aware it is claimed that the makers of the Constitution did not propose, by this section, to prevent grants of land to companies, yet I cannot see in the context any indication of such purpose. Certainly no ground of public policy will warrant a construction which would permit grants of land to corporations, but exclude individuals, however meritorious, from such favor.

While, then, the Legislature is forbidden to grant lands directly to any one, the same thing cannot be done indirectly by reviving, as in present instance, a corporation which has lost the right to land by failure to comply with its charter.

If this can be done, the said provision in the Constitution may be practically nullified, and all the public lands absolved by "reviving" the numerous extinct charters which encumber the statute books.

I have, then, to return this to your house, and request a reconsideration thereof.

Very respectfully,

EDMUND J. DAVIS,
Governor.

Senator Mills moved the message be referred to a select committee of five. Carried.

The Chair appointed on said committee Senators Pickett, Cole, Baker, Pettit, Bell.

The question recurring upon the adoption of the report of Select Committee, Senator Pyle offered the following substitute :

Resolved, That so soon as the said senators, or either of them, shall file the disclaimer required in said report, they shall be released from further arrest, and resume their seats in the Senate.

Senator Pickett moved its adoption.

Yeas and nays taken :

Yeas—Cole, Evans, Parsons, Pickett, Pridgen, Pyle, Rawson, Shannon—8.

Nays—Mr. President, Baker, Bell, Ford, Fountain, Gaines, Hall, Hertzberg, Mills, Pettit, Priest, Ruby, Saylor—13.

Under arrest, not voting—Bowers, Broughton, Clark, Dohoney, Douglas, Flanagan, Latimer—7.

Substitute lost.

The question recurring upon the adoption of the report and resolution of the Select Committee of Investigation, yeas and nays were taken.

Yeas—Mr. President, Baker, Bell, Cole, Ford, Fountain, Gaines, Hall, Hertzberg, Mills, Parsons, Pettit, Pickett, Priest, Rawson, Ruby, Saylor, Shannon—18.

Nays—Evans, Pridgen, Pyle—3.

Under arrest, not voting—Bowers, Broughton, Clark, Dohoney, Douglas, Flanagan, Latimer—7.

Report and resolution adopted.

Senator Priest offered the following resolution :

WHEREAS, The poisonous shafts of defamation, from partisan and malicious sources, are being sometimes hurled at the worthy and able President of the Senate, especially in regard to his conduct and rulings in having certain senators arrested by order of the Senate, who had violated the rules of the Senate, and by so doing secured a quorum, and prevented the disorganization of the Senate, the same being demanded by the exigency of the occasion, sustained by parliamentary usage and law, and authorized by the Senate; therefore

Resolved, That the prompt and efficient conduct of the President in the premises, in sustaining the integrity and dignity of the Senate, and in preserving the best interests and rights of the people of Texas by ensuring the reorganization of the State, justly deserves our praise, as well as the gratitude of the people, whose rights he so nobly vindicated.

Adopted.

Senator Fountain moved to reconsider and to lay the motion to reconsider on the table. Carried.

On motion of Senator Priest the Senate went into executive session.

IN THE SENATE.

Special message from the Governor :

EXECUTIVE DEPARTMENT,

Austin, Texas, July 13, 1870.

To the Honorable Senate of the State of Texas :

GENTLEMEN: I respectfully ask your advice and consent to the following appointment: Louis W. Stevenson for Major General of militia.

Respectfully,

EDMUND J. DAVIS,

Governor.

Referred to Committee on Nominations.

On motion of Senator Ruby the Senate went into executive session.

IN SENATE.

On motion of Senator Fountain the rules were suspended to take up House bill No. 341, "An Act providing for the issuance and sale of the bonds of the State, etc.," made special order for Tuesday next, 11 A. M.

Senator Ruby offered the following resolution :

Resolved, That the rules of order of the Senate be and are hereby amended by the following additions to the order of business :

After order four, page five, add: "Fifth—Reading of Senate bills third time. Sixth—Reading of Senate bills second time. Seventh—Reading bills from House of Representatives passed to third reading. Eighth—Reading House of Representatives bills the second time. Ninth—Message from House of Representatives.

Laid over under the rules.

On motion of Senator Fountain Senate adjourned.